IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIFTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 8907 of 2000

Between:

1. B Madhusudhan Reddy S/o Late Dharma Reddy
H. No. 5-11-532, Behind R.T.C. Office, Nai Nagar, Hanamkonda,

Warangal District
2. B Shashikanth Reddy S/o Madhusudhan Reddy
H. No. 5-11-532, Behind R.T.C. Office, Nai Nagar, Hanamkonda,

Warangal District

..... PETITIONERS

AND

1. The Municipal Corporation of Warangal, represented by its

Commissioner, Warangal
2. The Kakatiya Urban Development Authority rep by its Vice-Chairman
Warangal

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ or order or direction particularly one in the nature of *Writ of Mandamus* declaring the action of the respondents in allowing the constructions in the land earmarked for 80 feet Road in Master Plan 18/1975 and also R.D. Master Plan No. 18/1988 situated at Lashkar Shingaram, Village Shivar, Pallevelpula Gram Panchayat, Hanamkonda Mandal, Warangal District as arbitrary, illegal and against the sanctioned Master Plan vide 18/1975 of the Municipal Corporation of Warangal District.

Counsel for the Petitioner: L.RAVI KUMAR

Counsel for the Respondent: MR.K.VENUGOPAL REDDY FOR R

The Court made the following:

ORDER:

Seeking a declaration that the action of the respondents in allowing the constructions in the land earmarked for 80 feet road in Master Plan 18/1975 and also R.D. Master Plan No.18/1988 situated at Lashkar Shingaram, Village Shivar, Pallevelpula Gram Panchayat, Hanamkonda Mandal, Warngal District as arbitrary and illegal, the present writ petition is preferred by the petitioner.

2 . The case of the petitioners is that they are the absolute owners and possessors of the land admeasuring 1689 square yards bearing Plot Nos.6,7, 4 and 5 in Survey No.265/A/B, situated at Lashkar Shingaram village Shivar, Pallivelpula Gram Panchayat, Hanamkonda Mandal, Warangal District. While so, in the month of June, 1995, they came to know that the employees of the 2nd respondent shifted the 80 feet approved plan 18/88 road connecting 100 feet at S.No.265 from its original place towards west and proposing to lay road through their land. On their representation dated 01.07.1996 to the 2nd respondent Authority, the second respondent issued a notice in Rc.No.C1/189/95-II/72, dated 17.07.1996 informing him to submit the registration documents within 7 days from the date of receipt of the notice for taking further action. Despite the petitioner submitting the registered documents, the second respondent did not take any action. There was exchange of notices between the petitioners and the second respondent with regard to laying of the road, which is in dispute. On 12.10.1999, the first respondent Corporation visited the land in question and measured the area for laying the proposed 80 feet road through their land without initiating any land acquisition proceedings to acquire the land. When they filed W.P.No.21887 of 1999 questioning the said illegal action of the respondents on 15.10.1999, this Court granted status quo orders obtaining as on that day and the said writ petition is pending. Though the status quo orders granted by this Court is in

force, the first respondent Corporation granted permission for construction of the residential houses in the land originally earmarked for laying a road in the master plan vide 18/1975. When the petitioner approached the respondent authorities, on noticing the constructions made in the original sanctioned master plan 80 feet road, the respondents stated that they once again revised the R.D. plan 18/88, prepared and sanctioned another R.D. plan vide No.4/1997. The respondents deviated from the original sanctioned master plan road and R.D. master plan 80 feet road and proposed to shift the same to lay road through their land. Aggrieved by the same, the present writ petition has been filed.

3. Heard the learned counsel. I have perused the material available on record.

4. The entire material goes to show that as a matter of fact, a writ petition has been filed by the petitioner at an earlier point of time and status quo was ordered in respect of the land in question and in spite of the existence of the status quo, the Corporation has granted permission to raise construction on the site, which is proposed for laying the road. If that being the case, the petitioner ought to have filed a contempt case instead of filing the present writ petition with the self same allegations.

5. The material also goes to show that the petitioners are the absolute owners of the land in question and the Corporation is taking steps to lay road on their land without acquiring the same in accordance with law. If that being the case, the petitioners cannot seek their remedy by invoking the jurisdiction of this Court under Article 226 of the Constitution of India, but it is elsewhere by seeking a declaration of title over the land in question. Therefore, this writ petition is not maintainable and the same is liable to be dismissed.

6. In the result, the writ petition is dismissed. No costs.

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(ELIPE DHARMA RAO, J)

Date: 15.07.2005

Ksn

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Commissioner,

Municipal Corporation, Warangal,

2. The Vice Chairman, Kakatiya Urban Development Authority Warangal

3. 2 CD copies